



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,022	04/14/2004	Philip Nathanael Jedele	2448-000012	6013
27572	7590	11/23/2005		
HARNESSE, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303				
			EXAMINER WILLIAMS, THOMAS J	
			ART UNIT 3683	PAPER NUMBER

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/824,022	<b>Applicant(s)</b> JEDELE, PHILIP NATHANAEL	
	<b>Examiner</b> Thomas J. Williams	<b>Art Unit</b> 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 16-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/24/05</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Acknowledgment is made in the receipt of the amendment filed September 12, 2005 and the information disclosure statement filed August 24, 2005.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4-7, 9-12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,485,897 to Kawaguchi et al.

Re-claim 1, Kawaguchi et al. disclose a brake caliper, comprising: a one piece body 38, the body has a first wall and an opposing second wall, a pair of bridge sides connect the first and second walls; the first wall has two bores 46 for receiving a piston assembly; an opening is formed between the first wall, second wall and pair of bridge sides, the opening enabling access into the body; at least one aperture formed in the second wall, the aperture is continuous with the opening for enabling access, the opening is capable of allowing access for tools for machining.

Re-claims 2 and 12, the bridge sides define a centroid aligned with centers of the at least two bores.

Re-claims 4-6, 10, 11 and 15, the second wall is provided with two apertures; a wall section separates the apertures for enabling receiving a paid pin; the apertures are U-shaped.

Re-claim 7, Kawaguchi et al. disclose a brake caliper, comprising: a one piece body 38, the body has a first wall and an opposing second wall, a pair of bridge sides connect the first and

Art Unit: 3683

second walls; the first wall includes at least two bores each for receiving a piston assembly; an opening is formed between the first wall, second wall and pair of bridge sides, the opening enabling access into the body; a first and second brake pad 60, the first brake pad abuts the first wall and the second brake pad abuts the second wall; at least two pistons assemblies each are positioned in one of the at least two bores; a pair of apertures 58 are in the first wall for enabling coupling with a knuckle, see figure 2.

Re-claim 9, the at least one aperture 58 originates at the bridge side.

Re-claim 14, the first brake pad abuts the piston assemblies so that the pad abutment is above a pad friction center, the abutment is above the pad friction center, see figures 2 and 3.

4. Claims 1, 2, 4-7, 9-12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US 6,173,819 to Meiss et al.

Re-claims 1 and 7, Meiss et al. disclose in figure 5 a brake caliper comprising: a one piece body, a first wall, a second wall, a pair of bridges sections 18/19/41; the first wall has two bores for pistons; an opening 20 is formed between the first wall, the bridge and the second wall, the opening will enable access into the body; an aperture 27 is formed in the second wall and is continuous with the opening 20; brake pads are adjacent the walls; figure 1 illustrates the mounting structure for attachment to a knuckle.

Re-claims 2, 9, 12 and 14, see figure 5.

Re-claims 4-6, 10-11 and 15, the opening can be interpreted as the volume containing the pads, thus the plurality of apertures in the second wall are continuous with the opening, a wall section separates the pair of apertures, the apertures are u-shaped.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 3, 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meiss et al.

Re-claims 3, 8 and 13, Meiss et al. fail to specify the desired thickness of the bridge sides being between 8 mm to 14 mm. It is the opinion of the examiner that the thicknesses of the bridge sections would depend upon the size of the caliper and the intended use of the caliper, such as for a small vehicle or a large vehicle. It would have been obvious to one of ordinary skill in the art as a matter of design choice to have sized the bridge sections of Meiss et al. between 8 mm and 14 mm as warranted by the intended use, and since applicant has not disclosed that having the bridge sections sized between 8 mm and 14 mm solves any stated problem or is for

Art Unit: 3683

any particular purpose and it appears that the caliper with bridge sections between 8 mm and 14 mm thick would have performed equally well in the apparatus of Meiss et al.

### ***Double Patenting***

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1-15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 and 20 of copending Application No. 10/395,925. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to have provided the brake caliper of '925 with two piston assemblies with corresponding opposing apertures, thus increasing the actuation force without increasing the diameter of the piston assemblies, or to have used two smaller pistons to achieve the actuation force of a single large piston.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Response to Arguments***

10. Applicant's arguments filed September 19, 2005 have been fully considered but they are not persuasive. The applicant's position that the caliper body of Kawaguchi et al. is completely

Art Unit: 3683

solid is not clearly supported by the figures or the disclosure. In figure 3 two parallel recesses are formed in the caliper body and extend to the opposing side as illustrated in figure 1. The opposing side is also provided with a recess between the parallel bridge portions 40. The arguments regarding the double patenting rejection have been considered. However, the rejection cannot be withdrawn until a proper terminal disclaimer is filed or the claims are amended to overcome the rejection.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tourneur is cited in the foreign search report.

12. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is 571-272-7128. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan, can be reached at 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-6584.

TJW

November 10, 2005

THOMAS WILLIAMS  
PATENT EXAMINER

Thomas Williams  
Av 3683  
11-10-05